



**Ordre
des pharmaciens
du Québec**

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Pharmacists Services and the "Internet Pharmacy"

Submitted to the

OFFICE OF THE SURGEON GENERAL

Task Force on Drug Importation

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Pharmacists Services and the “Internet Pharmacy”

“a prescription is a drug product plus the pharmacist professional service”

Foreword

The Quebec Order of Pharmacists is pleased to have the opportunity to present his point of view and course of action on this important matter that is the so-called “Internet pharmacy or Cyberpharmacy”. We thank the Health and Human Services Secretary, Tommy G. Thompson, for the invitation.

Preliminary distinction

Within the Canadian system, the drug itself (research, development, publicity, wholesale distribution, price control and so-on) falls under the federal jurisdiction. The pharmacist professional activity (pharmacy practice) falls under the provincial jurisdiction.

Quebec Order of Pharmacists

The Quebec Order of Pharmacists is the province of Quebec licensing body. Membership is mandatory to practice pharmacy and we represent six thousand two hundred (6200) pharmacists. Our main responsibility is the public protection through the regulation and control of the pharmacy practice in the province.

Quebec Pharmacy Law

The Quebec Pharmacy Law is unique in North America in the sense that only a pharmacist (all by himself or in association with other pharmacists) can own a retail pharmacy. For this presentation we will remind you of a few articles of the Pharmacy Actⁱ that are of primary importance for the matter under scrutiny, they are:



Pharmacy Act

Definition of "prescription";

- (j) "prescription": an authorization to supply a medication,
(i) given by a person authorized to prescribe medication by a law of Québec;
(ii) given by a person authorized to prescribe medication by a law of another province or of a territory in Canada to the extent that such person would be authorized to prescribe such medication by a law of Québec if he were practising in Québec;

Pharmacy practice.

17. The practice of pharmacy consists in determining and ensuring the proper use of medications, particularly to identify and prevent pharmacotherapeutic problems, and in preparing, storing and delivering medications in order to maintain or restore health.

Reserved activities.

The following activities in the practice of pharmacy are reserved to pharmacists:

- 1) issuing a pharmaceutical opinion;
- 2) preparing medications;
- 3) selling medications, in accordance with the regulation under section 37.1;
- 4) supervising medication therapy;
- 5) initiating or adjusting medication therapy, according to a prescription, making use, where applicable, of appropriate laboratory analyses;
- 6) prescribing and personally dispensing emergency oral contraception medication, provided a training certificate has been issued to the pharmacist by the Order pursuant to a regulation under paragraph o of section 94 of the Professional Code (chapter C-26).

Prescriptions.

21. A pharmacist must fill a prescription according to its integral terms.

Medication with same generic name.

He may, however, provided that he notifies the client and mentions his substitution in the register, substitute for the prescribed medication a medication whose generic name is the same, unless indication to the contrary is made in writing by the person writing the prescription.

Revealing composition of medication.

23. At the request of the Bureau, a pharmacist must reveal to it the composition of any medication he supplies and provide it with any sample of such medication for purposes of analysis.

Prohibited interests in undertaking.

24. No pharmacist may substitute for a prescribed medication a medication manufactured by an undertaking in which he has a direct or indirect interest.

Own name.

25. No person may practise the profession of pharmacy under a name other than his own.

Name.



Nevertheless, pharmacists shall be allowed to practise their profession under the name of one or two or more of the partners.

Owners of pharmacies.

27. Subject to sections 28 to 30, only a pharmacist, a partnership of pharmacists or a joint-stock company all of the shares of which are held by one or more pharmacists and all of the directors of which are pharmacists may be owner of a pharmacy and buy and sell medications as owner of a pharmacy.

ILLEGAL PRACTICE OF PHARMACY

Acts restricted to pharmacists.

35. Subject to section 18 and to the rights and privileges expressly granted by law to other professionals, no person may engage in any of the activities described in the second paragraph of section 17 unless he is a pharmacist.

Code of ethics of pharmacists

3.01.05. A pharmacist must try to establish a relationship of mutual trust between the patient and himself. He must, therefore:

- (a) refrain from practising his profession in an impersonal manner;
- (b) give advice in a manner that respects the standards and personal convictions of his patient if informed of them by the latter.

Availability and diligence

3.03.01. A pharmacist must display reasonable availability and diligence in the practice of his profession.

Liability

3.04.01. A pharmacist must, in practice of his profession, fully commit his personal civil liability. He is thus prohibited from inserting in a contract of professional services any clause directly or indirectly excluding, in whole or in part, such liability.



Prescription dispensing

Under the Quebec Pharmacy Law a pharmacist can fill up a prescription drug if, and only if, he received a prescription from an authorized prescriber (let's say a physician) in the province of Quebec or in another province. Consequently this means that a Quebec pharmacist cannot fill up a prescription drug under a prescription that is signed by a US physician, unless this physician is also authorized to practice in Quebec or Canada.

About Internet

Every one knows that Internet is a powerful communication tool and network. Development and expansion are still going on and only our imagination can help to figure out where all this will leads us in the future. But Internet is still and will remain a communication tool. We do not like the expression “Internet Pharmacy”. It would be more appropriate to utilized “Pharmacy using Internet or Pharmacy through Internet”. Let's remind here that Fax machine and Delivery are other tools of communication. Hence we never experienced a wide spread use of an expression such as “Fax Pharmacy”. Internet communication as a tool can be use by pharmacists, according to our standards of practice. But the bottom line is that the prescription should be a legal one in the first place. And a prescription under the signature of an American physician is not a legal prescription that can be fill by a pharmacist in the province of Quebec. As well we do suggest that this interpretation should be the same across Canada.

Internet limit and challenge

One of the limits is that an illegal prescription does not become a legal one because it transits through the Internet. The challenge then is to regulate and enforce that regulation especially across the border.

Quebec Order of Pharmacists course of action

When it comes to cross-border use of Internet, the Quebec Order of Pharmacists has followed three different pathways that are disciplinary action, penal law suit for illegal practice of pharmacy and public information and awareness. We will briefly address each one.



Disciplinary action

Disciplinary action deals with our own members. Regular professional activities surveillance, public information or special inquiries may provide indication, that a specific situation needs a closer look, and should be referred to the disciplinary committee. With regard to Internet we have had a few members that where sanctioned for participating, with non-pharmacist, in such activities.

Penal law suit for illegal practice of pharmacy

This addresses situations where a non-pharmacist, an individual or a company, sells drug through an Internet site operated within the province of Quebec. We do bring these individuals or companies in court for illegal practice of pharmacy. It is a time consuming and costly process. In addition it is not very efficient. When they are found guilty and fine companies vanished to restart their skim all over again under a different name. For the Quebec Order of Pharmacists it is not possible to sustain the many needed activities all by himself. We simply do not have the important financial resources needed to conduct all inquiries we will like to do. But more importantly we do need the support (technically and financially) and collaboration of all jurisdictions that are implicated in that law enforcement. A very example of that is the drugs transportation itself. The Quebec Order of Pharmacists cannot control what transit through the Canada-USA border.

Public information and awareness

As often as we have the opportunity we answer questions from the media about our action and philosophy with regards to the so-called "Internet Pharmacy". Our key messages are dedicated to the general population, to pharmacists and to other jurisdictions as well. They cover various aspects including:



1) Public protection, professional liability and insurance coverage

The public is losing its legal umbrella protection when it deals with a pharmacist across the border for prescription drugs. The border acts as a curtain that makes very hard (virtually impossible) to sue a pharmacist in case of error or professional misconduct. Thus a pharmacist is "losing his liability". In addition insurance protection does not cover illegal activities and pharmacists as well as physicians had been informed about that.

2) Canadian-made drug quality not the important issue

The Canadian-made drugs are manufactured under a set of quality standards similar to those in use in USA. The Quebec Order of Pharmacists shares the idea that the Canadian manufacturing quality assurance program is working well. The public must be reassured about it and should be confident in Canadian-made drugs legally on the market.

3) Counterfeit drug a real threat

However, counterfeit drug represent a real threat since we do not know anything about their manufacturing and country of origin. But we do know that significant quantities and varieties are in circulation. Then a real preoccupation arises because we are in presence of an illegal activity that might take place in connection with another type of illegal activity. On the one hand we are in presence of an illegal dealing of drugs and on the other hand we are in presence of an illegal filling of prescription. Thus it is of prime importance to make the public aware of these two levels of illegality that might or not interact. A licensing body such the Quebec Order of Pharmacists as the duty to enforce professional law and regulation in order to prevent one part that is the illegal filling of prescription. This is exactly what we try to achieve.



4) Reminder: distinction between a drug and a prescription

On a regular basis media are referring to the so-called "Internet pharmacy" as a problem of drug exportation. When I answers questions form journalists I always stress the distinction between drug and prescription. In fact, a prescription is a drug product plus a pharmacist's service. In other word a drug plus an added value. What physically crossed the border following a wed transaction is the prescription.

5) Loophole that facilitates the "illegal prescription export process"

What the custom officers let go through the border is a person carrying a personal provision of medication for up to 90 days. This basic distinction carries a through meaning when it comes to identify the organism responsible for enforcement of the legislation. A loophole might have been created by a loose control at the border. Unless the authority strongly act on that the problem may expand to more than Canada-USA border. The 90 days exception is worth to have but should not be interpreted as allowing every thing.

6) Pharmacy practice control and licensing

Every aspect of the drug dispensing process by a pharmacist, in the province of Quebec, falls under the control of the Quebec Order of Pharmacists. The legality should be examined and interpreted in light of the law and regulation in place. Three points are relevant to the present issue. The first is, that for a prescription to be valid should be issued (or signed) by an authorized prescriber. The second is that only a pharmacist can fill a prescription. The third is that only a pharmacist can own a pharmacy. The future might leads us to the free circulation of the professional within various jurisdiction but we are not there at present time. So when it comes to prescription drug use and to pharmacist services we should all explain the rational of our respective legislation. Optimal drug use needs comprehensive pharmaceutical care.



7) Negative impacts

The main negative impact is a lack of continuity and personal communication between patients and pharmacists. Beside that we have raised several other important issues surrounding the "Cross-border-Internet-Pharmacy"

- a) In a period of pharmacist's shortage we do think it increases the pressure on pharmacists demand in Canada.
- b) As previously mentioned it helps to create conditions that facilitate the counterfeit drug market.
- c) Drug shortage may be experience since companies are increasing their control on sales.
- d) Economical impacts may weakened Canadian drug industry and research activities taking place in Canada.
- e) Drug recall process can as well be weekend since "Internet pharmacy" increases the risk of loosing track of a specific batch.

8) Societal challenge for the future

Besides economic impacts I am deeply concerned by some statements coming from Canadian as well as south of the border public figures. Telling to American citizen to buy their prescription drugs from Internet site operating from Canada is one example of that. Or supporting Canadian pharmacists who collaborate to dispense American prescriptions through those "illegal networks" is another example. In fact these public statement are going in the same direction and produce the same damaging effect. Indirectly they are calling for civil disobedience. If we do let things going on the way it is expanding at the moment, tomorrow we will face not only a Canadian-USA border problem but we will see drug imported from various other countries. Our pharmacy practice standards are at stake.



In conclusion I like to say that licensing bodies in Canada as well as in United States need support and public commitment from public authorities in order to help them to prevent illegal pharmacy practice to take place. In Quebec for instance we do work very hard to maintain the actual pharmacy ownership system that limits to pharmacists the right to own a pharmacy. This legal provision is the very one that allows the Quebec Order of Pharmacists to effectively acts against the so-called "Internet-pharmacy".

Jean-Yves Julien, B.Sc., M.Sc.
President

ⁱ Attachment: Québec Pharmacy Act and Code of Ethic



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c. P-10, r.5

Code of ethics of pharmacists

Pharmacy Act
(R.S.Q., c. P-10)

Professional Code
(R.S.Q., c. C-26, s. 87)

DIVISION I **GENERAL PROVISIONS**

1.01. In this Regulation, unless the context indicates otherwise, the following words mean:

- (a) «Order»: the Ordre des pharmaciens du Québec;
- (b) «pharmacist»: whoever is entered on the roll of the Order;
- (c) «pharmacy»: the place where a pharmacist practises his profession in conformity with section 17 of the Pharmacy Act (R.S.Q., c. P-10);
- (d) «student»: a student in pharmacy who holds a registration certificate;
- (e) «patient»: a person who has recourse to a pharmacist for professional services.

R.R.Q., 1981, c. P-10, r. 5, s. 1.01.

1.02. The Interpretation Act (R.S.Q., c. I-16), with present and future amendments, applies to this Regulation.

R.R.Q., 1981, c. P-10, r. 5, s. 1.02.

DIVISION II **GENERAL DUTIES AND OBLIGATIONS TOWARDS THE PUBLIC**

2.01. The pharmacist must use his professional knowledge to protect and promote public health. He must, unless he has sound reasons to the contrary:

- (a) support every measure whose aim is to improve public health;
- (b) collaborate in the diffusion of information on any policy intended to promote public health;
- (c) inform the public of any policy or measure he considers detrimental to public health.

R.R.Q., 1981, c. P-10, r. 5, s. 2.01.

2.02. A pharmacist must, unless he has sound reasons to the contrary, support every measure likely to improve the quality and availability of professional services in the field in which he practises. To this end, he must take the necessary measures to ensure the availability of pharmaceutical services in the district or region in which he practises his profession.

R.R.Q., 1981, c. P-10, r. 5, s. 2.02.

2.03. In the practice of his profession, a pharmacist must bear in mind the general effect which his research and work may have on society.

R.R.Q., 1981, c. P-10, r. 5, s. 2.03.

2.04. A pharmacist must promote measures of education and information in the field in which he practises. Unless he has sound reasons to the contrary, he must also, in the practice of his profession, do what is required to ensure such education and information.

R.R.Q., 1981, c. P-10, r. 5, s. 2.04.

2.05. A pharmacist must see to it that the pharmaceutical services rendered in the pharmacy where he practises his profession are performed in conformity with the rules of hygiene.

R.R.Q., 1981, c. P-10, r. 5, s. 2.05.

DIVISION III

DUTIES AND OBLIGATIONS TOWARDS PATIENTS

§ 1. General provisions

3.01.01. A pharmacist must practise his profession according to current professional standards and scientific knowledge; to that end, the pharmacist must keep up to date and perfect his knowledge.

R.R.Q., 1981, c. P-10, r. 5, s. 3.01.01; O.C. 56-94, s. 1.

3.01.02. Before rendering a professional service, a pharmacist must bear in mind the extent of his proficiency, knowledge and the means at his disposal. He must not undertake work for which he is not sufficiently prepared without obtaining the necessary assistance.

R.R.Q., 1981, c. P-10, r. 5, s. 3.01.02.

3.01.03. A pharmacist must at all times recognize the right of patient to consult a colleague, a member of another professional corporation or other competent person. He must, in particular, upon the request of the patient, furnish a colleague with any information required by the latter to fill a patient's prescription.

R.R.Q., 1981, c. P-10, r. 5, s. 3.01.03; O.C. 56-94, s. 2.

3.01.04. A pharmacist must not practise under conditions or in situations which could impair the quality of his services. In particular, a pharmacist must refrain from using stimulants or psychotropic substances, including alcohol, or

any other substances that have the same effect as psychotropic substances.

R.R.Q., 1981, c. P-10, r. 5, s. 3.01.04; O.C. 56-94, s. 3.

3.01.05. A pharmacist must try to establish a relationship of mutual trust between the patient and himself. He must, therefore:

(a) refrain from practising his profession in an impersonal manner;

(b) give advice in a manner that respects the standards and personal convictions of his patient if informed of them by the latter.

R.R.Q., 1981, c. P-10, r. 5, s. 3.01.05.

3.01.06. A pharmacist must, in practising the profession, respect the fundamental rights and freedoms of patients.

O.C. 56-94, s. 4.

3.01.07. A pharmacist must, where so requested by a patient, participate in the safe collection of expired or unused medicines for the purpose of destroying them.

O.C. 56-94, s. 4.

§ 2. Integrity

3.02.01. A pharmacist must discharge his professional duties with integrity.

R.R.Q., 1981, c. P-10, r. 5, s. 3.02.01.

3.02.02. A pharmacist must avoid any misrepresentation with respect to his level of competence or the effectiveness of his own services and of those generally provided by the members of his profession. If the good of the patient so requires he must, with the latter's authorization, consult a colleague, a member of another professional corporation or another competent person, or refer him to one of these persons.

R.R.Q., 1981, c. P-10, r. 5, s. 3.02.02.

3.02.03. A pharmacist must avoid expressing an opinion or giving advice that is contradictory or incomplete. He must, therefore, try to know all the facts before completing a pharmaceutical act.

R.R.Q., 1981, c. P-10, r. 5, s. 3.02.03.

3.02.04. A pharmacist must inform his patient as soon as possible of any error he has made in rendering a professional service to that patient.

R.R.Q., 1981, c. P-10, r. 5, s. 3.02.04.

§ 3. Availability and diligence

3.03.01. A pharmacist must display reasonable availability and diligence in the practice of his profession.

R.R.Q., 1981, c. P-10, r. 5, s. 3.03.01.

3.03.02. In addition to opinion and advice, a pharmacist must provide his patient with any explanation necessary to the understanding and evaluation of the services rendered him.

R.R.Q., 1981, c. P-10, r. 5, s. 3.03.02.

3.03.03. A pharmacist must be objective and impartial when persons other than his patients ask him for information.

R.R.Q., 1981, c. P-10, r. 5, s. 3.03.03.

§ 4. Liability

3.04.01. A pharmacist must, in practice of his profession, fully commit his personal civil liability. He is thus prohibited from inserting in a contract of professional services any clause directly or indirectly excluding, in whole or in part, such liability.

R.R.Q., 1981, c. P-10, r. 5, s. 3.04.01.

§ 5. Independence and impartiality

3.05.01. A pharmacist must subordinate his personal interest to that of his patient.

R.R.Q., 1981, c. P-10, r. 5, s. 3.05.01.

3.05.02. A pharmacist must ignore any intervention by a third party which could influence the performance of his professional duties to the detriment of his patient.

R.R.Q., 1981, c. P-10, r. 5, s. 3.05.02.

3.05.03. A pharmacist must refuse to fill a prescription if he has good reason to believe that he is acting in the patient's best interests.

R.R.Q., 1981, c. P-10, r. 5, s. 3.05.03.

3.05.04. A pharmacist must charge fair and reasonable prices for his professional services.

R.R.Q., 1981, c. P-10, r. 5, s. 3.05.04.

3.05.05. A pharmacist may share his income with another pharmacist to the extent that sharing corresponds to a distribution of services and responsibilities.

R.R.Q., 1981, c. P-10, r. 5, s. 3.05.05.

3.05.06. A pharmacist must not receive, other than the remuneration to which he is entitled, any benefit, allowance or commission relative to the practice of his profession. Nor shall he pay, offer to pay or undertake to pay such benefit, allowance or commission.

R.R.Q., 1981, c. P-10, r. 5, s. 3.05.06.

3.05.07. A pharmacist must not, directly or indirectly, offer, award or distribute

discounts, gifts, rebates, coupons, trading stamps or other bonuses in any form while selling medicines other than medicines referred to in section 38 of the Pharmacy Act.

Notwithstanding the first paragraph, a pharmacist may, in respect of medicines kept in the section of his pharmacy that is accessible to the public, mark a reduced price on each package, in addition to the regular price, and may display that reduced price on the shelf on which the medicines are kept.

O.C. 56-94, s. 5.

3.05.08. A pharmacist or a partnership of pharmacists must not give to a person authorized to write prescriptions under a statute of Québec or of another province or territory of Canada, or to a health institution within the meaning of the Act respecting health services and social services (R.S.Q., c. S-4.2), gifts, rebates, coupons or other bonuses in any form and in particular fax machines, computers or other electronic equipment.

O.C. 56-94, s. 5.

3.05.09. A pharmacist or a partnership of pharmacists may not give to a person authorized to write prescriptions under a statute of Québec or of another province or territory of Canada, sheets or books of prescription paper on which the name, address and telephone number of both the prescriber and the pharmacist or pharmacy are written or printed.

O.C. 56-94, s. 5.

3.05.10. A pharmacist or a partnership of pharmacists may not allow a person authorized to write prescriptions under a statute of Québec or of another province or territory of Canada to advertise the pharmacist, the partnership of pharmacists or the pharmacy on either side of a printed or written sheet of paper used to write a medical prescription of any kind.

O.C. 56-94, s. 5.

§ 6. Professional secrecy

3.06.01. A pharmacist must respect the secrecy of all confidential information acquired in the practice of his profession.

R.R.Q., 1981, c. P-10, r. 5, s. 3.06.01.

3.06.02. Subject to section 3.01.03, a pharmacist may be released from professional secrecy only upon the authorization of his patient or when so ordered by law.

R.R.Q., 1981, c. P-10, r. 5, s. 3.06.02; O.C. 56-94, s. 6.

3.06.03. A pharmacist must avoid indiscreet conversations concerning a patient and the services rendered him.

R.R.Q., 1981, c. P-10, r. 5, s. 3.06.03.

3.06.04. A pharmacist shall not make use of confidential information to the prejudice of a patient or with a view to obtaining a direct or indirect benefit for himself or for another.

R.R.Q., 1981, c. P-10, r. 5, s. 3.06.04.

3.06.05. A pharmacist must ensure that his employees do not disclose information of a confidential nature obtained in the exercise of their duties.

R.R.Q., 1981, c. P-10, r. 5, s. 3.06.05.

3.06.06. In addition to the circumstances provided for in section 3.06.02, a pharmacist may communicate information that is protected by professional secrecy to prevent an act of violence, including a suicide, where the pharmacist has reasonable cause to believe that there is an imminent danger of death or serious bodily injury to a person or an identifiable group of persons.

In such a case, the pharmacist may only communicate the information to the person exposed to the danger or that person's representative and to the persons who can come to that person's aid ; the pharmacist may only communicate such information as is necessary to achieve the purposes for which the information is communicated.

If it is necessary in the best interests of the person exposed to the danger, the pharmacist shall consult another member of the Order, a member of another professional order, or any other qualified person, provided the consultation will not prejudicially delay the communication of the information.

O.C. 23-2004, s. 1.

3.06.07. Where information protected by professional secrecy is communicated under section 3.06.06, the pharmacist must enter the following information in the client's record :

- (1) the identity of the person in danger ;
- (2) the identity and contact information of any person who made threats ;
- (3) the nature of the threats and the circumstances in which they were made ;
- (4) the identity and contact information of any person or body that received the information ;
- (5) the date and time of the communication and of the events leading to the communication.

O.C. 23-2004, s. 1.

§ 7. *Accessibility of records*

3.07.01. A pharmacist must respect the right of his patient to consult the documents that concern him in any record made in his regard and to obtain a copy of such documents unless:

- (a) he has good reason to believe that it would be detrimental to the patient to allow him to consult such documents; or
- (b) the documents have been given him by a third party with the express understanding that they not be shown to the patient.

R.R.Q., 1981, c. P-10, r. 5, s. 3.07.01.

3.07.02. A pharmacist must, at the request of a patient, give that patient, without charge, a true copy of his written prescription, or a transcription of a prescription given verbally, the original of which he has in his records. He must authenticate such true copy by inserting in it the words «true copy», his initials, the name of the owner of the pharmacy and its address.

R.R.Q., 1981, c. P-10, r. 5, s. 3.07.02.

DIVISION IV

DUTIES AND OBLIGATIONS TOWARDS THE PROFESSION

§ 1. Derogatory acts

4.01.01. In addition to those referred to in sections 57 and 58 of the Professional Code (R.S.Q., c. C-26), the following acts are derogatory to the dignity of the profession of pharmacist:

- (a) pressing or repeated inducement to make use of his professional services;
- (b) communicating with the plaintiff without the prior written permission of the syndic or his assistant where he is informed of an inquiry into his professional conduct or competence or whenever a complaint has been served on him;
- (c) neglecting to inform the Order if he has reason to believe that a pharmacist is incompetent or departing from the professional code of ethics;
- (d) requiring, offering, promising, accepting, or agreeing to accept a sum of money or any benefit to influence the adoption or rejection of any of the Order's procedures or decisions;
- (e) if he is not the real owner of a pharmacy, allowing the use of his name to give the impression that he is in fact the owner;
- (f) collaborating in the sale of medicines in a place not under his control and constant supervision, or that of another pharmacist;
- (g) entering in his record false information concerning a patient or a professional service rendered the latter, or deliberately omitting any necessary information;
- (h) supplying receipts or other documents falsely indicating the sale of a prescription medication or indicating a price other than that charged to the patient;
- (i) selling, giving or distributing an expired or unused medicines returned to the pharmacist by a patient;
- (j) accepting the return of any quantity of medication, except for the purpose of ensuring, at a patient's request, the safe collection of expired or unused medicines;
- (k) selling samples of medicines;
- (l) making untrue statements on the training period hours of a candidate for the practice of the profession;
- (m) keeping a patient's health insurance card or drug eligibility card;

- (n) disclosing, without the patient's consent, information from the latter's record;
- (o) claiming fees for professional acts not rendered;
- (p) claiming from a patient, without valid reason, a sum of money for a professional service or part of a professional service whose cost is assumed by a third party;
- (q) being negligent in the practice of his profession;
- (r) failing to initial the original of a written prescription or the transcription of a verbal prescription filled under his responsibility;
- (s) making a medical diagnosis;
- (t) sharing his fees or the profit resulting from the sale of medicines with a person who is not a pharmacist;
- (u) selling to the public, whether in filling a prescription or otherwise, medicine in a container that does not have a safety cap, except if the patient's state of health is such that he cannot use a container with a safety cap and he requests a container without such cap. This section does not apply to medicines supplied to patients in the manufacturer's original container.

R.R.Q., 1981, c. P-10, r. 5, s. 4.01.01; O.C. 56-94, s. 7. and 8.

§ 2. *Relations with the Order and other pharmacists*

4.02.01. A pharmacist must, when dealing with the Order, other pharmacists, persons training to become pharmacists and employees of a pharmacy where he practises, act with dignity, courtesy, respect and integrity. In particular, the pharmacist must promote the advancement and development of the profession to the best of his ability.

R.R.Q., 1981, c. P-10, r. 5, s. 4.02.01; O.C. 56-94, s. 9.

4.02.02. A pharmacist must answer promptly, fully and truthfully all correspondence sent by the secretary, the assistant secretary, the syndic, the assistant syndic, a corresponding syndic, a member of the professional inspection committee or an investigator appointed by the Bureau in the performance of the duties imposed on them by the Act and the Regulations.

R.R.Q., 1981, c. P-10, r. 5, s. 4.02.02; O.C. 56-94, s. 9.

4.02.03. A pharmacist must not abuse the good faith of another pharmacist or be guilty of breach of trust or disloyal practices towards him. He must not, in particular, take credit for work done by another pharmacist.

R.R.Q., 1981, c. P-10, r. 5, s. 4.02.03.

4.02.04. A pharmacist consulted by another pharmacist must give the latter his opinion and recommendations as soon as possible.

R.R.Q., 1981, c. P-10, r. 5, s. 4.02.04.

4.02.05. A pharmacist who is a student's tutor must provide that student with the certificates and attestations to which he is entitled.

R.R.Q., 1981, c. P-10, r. 5, s. 4.02.05.

§ 3. *Contribution to the advancement of the profession*

4.03.01. A pharmacist must, as far as he is able, contribute to the development of his profession by sharing his knowledge and experience with other pharmacists and students and by participating in courses, continuing training periods and scientific work and research in the field of pharmacy.

R.R.Q., 1981, c. P-10, r. 5, s. 4.03.01.

DIVISION V

CONDITIONS, OBLIGATIONS AND RESTRICTIONS IN RESPECT OF ADVERTISING

5.01. A pharmacist or a partnership of pharmacists may not engage in, or allow on his or its behalf, the use, by any means whatsoever, of advertising that is false, misleading or liable to mislead the public.

In particular, the pharmacist must avoid, in advertising, making allegations implying therapeutic properties not founded in current scientific knowledge.

O.C. 56-94, s. 10.

5.02. A pharmacist or a partnership of pharmacists may not, in advertising, promote the consumption of medicines.

O.C. 56-94, s. 10.

5.03. A pharmacist or a partnership of pharmacists may not, in advertising, compare the quality of his or its services with those of other pharmacists, and may not discredit or denigrate the image of or the services offered by other pharmacists.

O.C. 56-94, s. 10.

5.04. A pharmacist must not use or allow the use of his name and professional title in advertising intended for the public and sponsored by a manufacturer of medicines or pharmaceutical products.

O.C. 56-94, s. 10.

5.05. All members of a partnership of pharmacists are jointly and severally responsible for ensuring that the rules in respect of advertising are observed, unless the advertising clearly indicates the name of the pharmacist who is responsible for it.

O.C. 56-94, s. 10.

5.06. A pharmacist or a partnership of pharmacists may not, in advertising, associate or allow the association of the pharmacist's or partnership's name or professional title with a natural or legal person who is not a member of the Ordre des pharmaciens du Québec.

Notwithstanding the first paragraph, a pharmacist or a partnership of pharmacists whose activities other than those related to the practice of pharmacy are carried

on under a commercial name may mention that affiliation in advertising, provided that the name and address of the pharmacist or partnership are mentioned in the advertising. In printed advertising and on billboards, the names and addresses of the pharmacists must be more prominent than the commercial name. In radio and television commercials, the names and addresses of the pharmacists must be mentioned clearly and must be more prominent than the commercial name.

An advertisement under the second paragraph may not suggest or insinuate that the professional services described are offered by a natural or legal person other than the pharmacists or partnerships of pharmacists whose names and addresses are mentioned therein.

Nothing in this section shall be interpreted as forbidding a pharmacist from associating his name and professional title with the corporate name of the pharmacist's employer or an organization connected with the practice of the profession.

O.C. 56-94, s. 10.

5.07. A pharmacist or a partnership of pharmacists may not in any way advertise, or allow the advertisement of, to the public on his or its behalf, medicines listed in the Schedule to the Narcotic Control Act (R.S.C., 1985, c. N-1) or in Schedule G to the Food and Drugs Act (R.S.C., 1985, c. F-27).

O.C. 56-94, s. 10.

5.08. A pharmacist or a partnership of pharmacists may not advertise, or allow the advertisement of, to the public on his or its behalf, a medicine requiring a prescription.

A pharmacist or a partnership of pharmacists may, inside his or its pharmacy, indicate on a fixed sign the price of a certain quantity of one or more medicines referred to in the preceding paragraph, provided that the price includes the fees charged for filling or renewing a prescription for the medicine or medicines. The sign must also indicate what professional services are included in the fees.

O.C. 56-94, s. 10.

5.09. Where a pharmacist advertises or allows the advertisement on his behalf of a non-prescription medicine, he must:

- (1) state in the advertisement that all medicines may cause adverse reactions and must be kept out of the reach of children;
- (2) encourage the public, in the advertisement, to consult a pharmacist;
- (3) include in the advertisement a notice of any precaution, warning or contraindication for the medicine indicated on the label or on the package insert.

The items mentioned in subparagraphs 1, 2 and 3 must be clearly legible or, in the case of a radio commercial, clearly audible.

O.C. 56-94, s. 10.

5.10. A pharmacist or a partnership of pharmacists may advertise the amount of the professional fees related to the sale of a medicine, provided that the advertising appears solely inside the pharmacy, that the amount is indicated on a fixed sign and that the sign indicates what professional services are included in the fees.

5.11. A pharmacist or a partnership of pharmacists may not designate himself or itself as such in any advertising of goods offered for sale outside the pharmacy.

5.12. A pharmacist or a partnership of pharmacists must retain a complete copy of all advertising, in its original form, for a period of 2 years following the date on which it was last published or broadcast. The copy must be submitted to the syndic of the Order on request.

DIVISION VI

GRAPHIC SYMBOL OF THE ORDER

6.02. Any reproduction of the symbol must be identical to the original held by the secretary of the Order. .

R.R.Q., 1981, c. P-10, r. 5
O.C. 56-94, 1994 G.O. 2, 691
O.C. 23-2004, 2004 G.O. 2, 810